

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

July 3, 1991

ALL COUNTY LETTER NO. 91-62

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: CEJA et al. v. CARLSON - PRELIMINARY INJUNCTION

On June 27, 1991, the Superior Court of San Mateo County issued an order granting a preliminary injunction in the case of Ceja et al. v. Carlson. The court ordered the Department to cease using the MAP differential formula in deeming income to children and family members of immigrants legalized under the Immigration Reform and Control Act of 1986 (IRCA) who are ineligible to receive AFDC benefits due to their immigration status. The only formula which may now be used is the stepparent deeming formula found in Section 44-133.63. In addition, the Department and the counties were enjoined from recouping any overpayments of AFDC benefits to children and family members of such immigrants attributable to the use of any deeming formula other than the stepparent deeming formula. Additionally, where IRCA immigrants are involved, the deeming formulas provided in All County Letter No. 85-19 (DARCES) appear to be impacted by the court order. (A copy of this order is attached.)

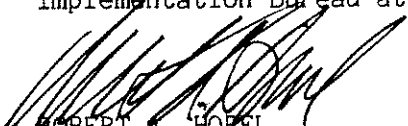
The injunction also included a number of mandatory provisions.

- 1) The Department and the counties were ordered to recalculate July 1991 benefits for all disqualified newly legalized immigrants using the stepparent deeming formula.
- 2) The Department was ordered to instruct counties to identify all affected AFDC cases and begin using the correct formula for deeming income for legalized immigrants no later than the payment month of August 1991.
- 3) The Department and counties were ordered to include a notice with the August 1, AFDC checks so that affected recipients may request a recalculation of their benefits for July 1991.

Following the issuance of this injunctive order, the Department filed an appeal. The appeal has the effect of staying enforcement of the mandatory provisions of the injunction. That means counties are not required at this time to implement the mandatory provisions listed above as items 1 through 3. We will inform you of the outcome of the appeal as soon as possible.

The Department has already been in the process of promulgating emergency regulations expected to be effective on August 1, 1991 (RDB# 0691-26). Because the mandatory provisions of the injunction are stayed pending appeal, Counties should proceed to take positive steps to implement the regulatory changes as soon as they become effective.

If you have any questions, please call Jim Mullany of the AFDC Policy Implementation Bureau at (916) 445-7884.



ROBERT A. HOREL
Deputy Director

COPY

ENDORSEMENT

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JUN 27 1991

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(Counsel continued on following page)

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

RICARDO CEJA, a minor, by his
 Guardian Ad Litem, INDELISA
 MONTES, ALFREDO J. RODRIGUEZ, and
 DIANA ACUNA and FREDERICK ACUNA,
 minors, by their Guardian Ad
 Litem, BERTHA ACUNA, on behalf of
 themselves and all others
 similarly situated,

Petitioners and Plaintiffs,

vs.

LONNIE M. CARLSON, Interim
 Director, California State
 Department of Social Services,
 CALIFORNIA DEPARTMENT OF SOCIAL
 SERVICES, AND DOES I - IX,

Respondents and Defendants.

CASE NO. 362529

ORDER RE:
 PRELIMINARY INJUNCTION

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13 Attorneys for Plaintiffs
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2 To defendants California Department of Social Services and
3 Lonnie M. Carlson, Interim Director, California Department of
4 Social Services:

5 Based on the exhibits and memoranda of points and
6 authorities submitted by the parties and the arguments of
7 counsel, this court hereby grants plaintiffs' motion for a
8 preliminary injunction. Accordingly, you, your agents, servants,
9 employees and all those acting in concert with you and each of
10 you, are hereby restrained and enjoined pending trial of this
11 action from:

12 1. Calculating the income available to the AFDC-eligible
13 children and family members of immigrants legalized under IRCA
14 using any formula other than the stepparent deeming formula in
15 MPP § 44-133.6.

16 2. Recouping any overpayments of AFDC benefits to the
17 children and family members of immigrants legalized under IRCA
18 attributable to the use of any deeming formula other than the
19 stepparent deeming formula in MPP § 44-133.6.

20 IT IS FURTHER ORDERED that defendants shall comply with this
21 order by recalculating AFDC benefits for the month of July 1991
22 using the stepparent deeming formula for all AFDC recipients with
23 income from disqualified newly legalized immigrants. Defendants
24 will report to this court on August 1, 1991 at 9:00 a.m.
25 concerning compliance, identifying the extent of any non-
26 compliance and the status of efforts to remedy any non-
27 compliance.
28

1 IT IS FURTHER ORDERED that:

2 (a) Within two working days of issuance of this order,
3 defendants shall communicate by facsimile transmission (FAX) the
4 substance of this order to all county welfare departments.

5 (b) Within five working days of this order, defendants
6 shall issue an All County Letter to all county welfare
7 departments instructing counties to comply and including a copy
8 of this order. The All County Letter shall instruct counties to
9 identify all affected AFDC cases and begin using the correct
10 formula for deeming income to children and family members of
11 newly legalized immigrants no later than the payment month of
12 August 1991.

13 (c) Defendants shall notify all AFDC recipients, by means
14 of a notice enclosed with the August 1, 1991 AFDC check, that
15 families containing immigrants legalized under IRCA who have
16 income may request immediate recalculation of their AFDC benefits
17 for July 1991, and issuance of a supplemental check if they are
18 entitled to additional benefits for that month. The notice to
19 AFDC recipients shall be printed in both Spanish and English.

20 (d) Defendants shall instruct the appropriate counties to
21 recompute AFDC benefits for July 1991 by July 5, 1991 for the
22 named plaintiffs using the stepparent deeming formula and to
23 issue supplemental AFDC checks to the named plaintiffs by July
24 10, 1991.

25
26 DATED: JUN 27 1991

LAWRENCE T STEVENS
JUDGE OF THE SUPERIOR COURT